IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

W.P.NOs.25987 OF 2005 AND 8355 OF 2006

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Dated: 27TH December 2006.

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W.P.NO.25987 OF 2005

Between:
M/S. Dadu's Mithai Vatika, Diamond House, Liberty Road, Himayat Nagar, Hyderabad.

..... PETITIONER

AND

The Commercial Tax Officer, Hyderguda Circle, Hyderabad.

.....RESPONDENT

W.P.NO.8355 OF 2006

Between:
M/S. Dadu's Mithai Vatika, Diamond House, Liberty Road, Himayat Nagar, Hyderabad.

..... PETITIONER

AND

The Commercial Tax Officer, Hyderguda Circle,
Hyderabad.

.....RESPONDENT

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NOs.25987 OF 2005 AND 8355 OF 2006

ORAL COMMON ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is the same in these two writ petitions. Aggrieved by two re-assessment orders dated 28-10-2005 and 28-02-2006, which are passed basing upon the information furnished by the Income Tax Department, present writ petitions are filed.

It appears that there was an inspection of the business premises of the petitioner by the Income Tax Department on 31-10-2002. Based on the material collected at the time of inspection, the Income Tax Department came to the conclusion that there was a violation of the Income Tax Act by the petitioner and appropriate proceeding under the Income Tax Act, were initiated. Having come to know the proceedings under the Income Tax Act, the respondents herein also chose to make re-assessment of the liability of the petitioner under

the A.P.G.S.T. Act, for the abovementioned assessment years by the impugned re-assessment orders.

It may not be necessary for this Court to go into the factual details of the said assessments, since the only submission made by the learned counsel for the petitioner is that the entire material relied upon by the respondents for making the impugned re-assessment orders, is not supplied to the petitioner before making such re-assessments and therefore, there is a failure of the principles of natural justice in passing the impugned orders in these two writ petitions.

Heard the leaned Government Pleader for Commercial Tax.

Admittedly, some of the material relied upon by the respondents for passing the impugned re-assessment orders, was not supplied to the petitioner.

In the circumstances, we are of the opinion that the impugned orders are required to be set aside on the ground that they are passed in violation of the principles of natural justice, with a liberty to the respondents to pass appropriate orders in accordance with law, making a re-assessment of the liability of the petitioner under the A.P.G.S.T. Act for the abovementioned assessment years, after affording a reasonable opportunity to the petitioner by furnishing copies of all the documents, which are sought to be relied upon for the purpose of making the re-assessment.

Accordingly, both the writ petitions are disposed of

with the above directions, setting aside the impugned orders.

J.Chelameswar, J

D.Appa Rao, J

mrk

27th December 2006